

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CSC HOLDINGS, INC.,

Plaintiff,

-against-

JOSEPH SCHRABAL,

Defendant.

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**ORDER**

03-CV-5869 (DRH)(MLO)

**HURLEY, District Judge:**

On May 20, 2004, Chief Magistrate Judge Michael L. Orenstein issued a Report and Recommendation in this case (the “Report”), denying defendant Joseph Schrabal’s (“Defendant”) application to set aside service of process. The Report was issued into the record after a traverse hearing. Judge Orenstein indicated that any objections to the Report must be filed with the Clerk of the Court “within 15 days of the date of service of this Report.” (Docket Entry 24.) For reasons that are unclear, plaintiff CSC Holdings, Inc. (“Plaintiff”) did not receive a copy of the transcript until early January 2006. On January 12, 2006, a copy of the transcript was mailed to Defendant’s counsel.

On February 2, 2006, Defendant, while still represented by counsel, filed a pro se objection to the Report. Plaintiff has opposed the objection. Thereafter, on April 5, 2006, Defendant’s attorney filed a motion to withdraw as counsel, which was subsequently granted by Judge Orenstein on April 17, 2006. Judge Orenstein stayed this action until June 1, 2006 to provide Defendant with an opportunity to secure new counsel.

Pursuant to Federal Rule of Civil Procedure 72(b), a party has ten days after being served with a copy of a recommended disposition of a dispositive matter to serve and file

specific written objections. Fed. R. Civ. P. 72(b). Here, Judge Orenstein's Order provided the parties with fifteen days to file objections. Either way, Defendant's objection was untimely.<sup>1</sup> Moreover, because Defendant's objection was filed pro se at a time when Defendant was represented by counsel, the Court declines to entertain it. *See United States v. Tutino*, 883 F.2d 1125, 1141 (2d Cir. 1989) ("The decision to grant or deny 'hybrid representation' lies solely within the discretion of the trial court.").

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation of Judge Orenstein for clear error, and the Court concurs in both its reasoning and its result. Accordingly, this Court adopts the May 20, 2004 Report and Recommendation of Judge Orenstein as if set forth herein.

**SO ORDERED.**

Dated: Central Islip, N.Y.  
April 21, 2006

/s \_\_\_\_\_  
Denis R. Hurley,  
United States District Judge

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<sup>1</sup> The Report was served on January 12, 2006. Plaintiff's pro se objection was filed on February 2, 2006, twenty-one days later.